PS8D May 15, 2008

FILED
MAY 20 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

Petition for Warrant for Defendant Under Supervision

Name of Defendant: Fregozo, Javier (English) **Dkt No.:** 07CR3296W-001
Reg. No.: 05716-298

Name of Judicial Officer: The Honorable Thomas J. Whelan, U.S. District Judge

Original Offense: 21 U.S.C. 952 & 960: Importation of 48.08 Kilograms of Marijuana

Date Conditions of Release Imposed: November 19, 2007, before the Honorable Peter C. Lewis, U.S. Magistrate Judge

Conditions of Release: Restrict travel to the Southern District of California; do not enter Mexico; report for supervision to the Pretrial Services Agency (PSA) as directed by the assigned Pretrial Services Officer and pay for the reasonable costs of supervision in an amount determined by PSA and approved by the Court; not possess or use any narcotic drug or other controlled substance as defined in 21 U.S.C.§ 802, without a lawful medical prescription; not possess any firearm or other dangerous weapon or explosive device; submit to treatment, and/or testing, as specified by the Pretrial Services Officer for drug or alcohol abuse; and actively seek and maintain full-time employment, schooling, or combination both.

Date Released on Bond: November 21, 2007

Modification: On January 25, 2008, travel to Mexico was allowed for a one day trip with family.

Date of Sentence: March 24, 2008

Sentence: Four months in custody and three years supervised release. (Special Conditions: No firearms; submit to search; report all vehicles to the probation officer; participate in a drug or alcohol abuse treatment program as directed by the probation officer; not to enter Mexico without permission; and participate in home confinement program as required by the probation officer).

Surrender Date: June 20, 2008

Asst. U.S. Atty.: James P. Melendres **Defense Counsel:** Robert A. Garcia (Appointed)
(619) 696-7881

Prior Violation History: On May 7, 2008, Pretrial Services submitted a violation letter informing the Court that Mr. Fregozo violated the conditions of his pretrial release by submitting urinalysis samples on April 15, 22, and 28, 2008, which tested positive for marijuana use. Additionally, the Court was informed Mr. Fregozo took the prescription medication Ibuprofen on May 3, 2008, which is not prescribed to him. The Court agreed with our recommendation and ordered no action as the defendant was forthright regarding his violations, he assured he would refrain from further illicit drug use, and his drug testing frequency was increased.

PETITIONING THE COURT

TO ISSUE A NO-BAIL BENCH WARRANT

The Pretrial Services officer believes that the defendant has violated the following conditions of pretrial release:

CONDITION	ALLEGATIONS OF NONCOMPLIANCE
(Standard Condition) Not possess or use any narcotic drug or controlled substance, (defined in 21 USC 802) without a lawful medical prescription.	1. The urinalysis samples provided by the defendant on April 15, 22, 28, 2008, and May 12, 2008, tested positive for marijuana use.
	2. The defendant used the prescription medication Ibuprofen on May 3, 2008, which is not prescribed to him.

Grounds for Revocation: As to allegation number one, I received and reviewed written laboratory notification from the U.S. Pretrial Services laboratory which confirms that the urine samples provided by the defendant at U.S. Pretrial Services on April 15, 22, 28, 2008, and May 12, 2008, tested positive for marijuana use.

As to allegation number two, the defendant admitted using the prescription medication Ibuprofen on May 3, 2008, which is not prescribed to him.

VIOLATION SUMMARY

SUPERVISION ADJUSTMENT:

Mr. Fregozo initially commenced pretrial release on November 21, 2007. Criminal computerized record checks completed on May 15, 2008, revel no violations. During the defendant's term of pretrial release, he has attended Imperial Valley College and he has been employed by Eight Star Commodities in El Centro, California, as a laborer. Mr. Fregozo continues to report as directed and maintains a respectful demeanor. Unfortunately, due to his continued illicit drug use and considering Pretrial Services has made several attempts to assist the defendant to remain drug free, his supervision adjustment is considered very poor.

RECOMMENDATION/JUSTIFICATION

Mr. Fregozo's behavior clearly demonstrates his failure to take supervision seriously and his blatant disregard towards the judicial system. Mr. Fregozo has taken advantage of the Court's generosity and his illicit drug use while on bond has placed his life and the life of others in danger. The defendant has further been sentenced and is scheduled to surrender on June 20, 2008. In light of this information, Pretrial Services respectfully requests a no bail warrant for the defendant's arrest.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 15, 2008

Respectfully submitted:
LORI A. GAROFALO
CHIEF PRETRIAL SERVICES OFFICER

by ______________________
Arturo Montaño
U.S. Pretrial Services Officer
(760) 335-3436

Reviewed and approved:

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Carlos Gutierrez
U.S. Pretrial Services Officer

THE COURT ORDERS:

✓ A NO-BAIL BENCH WARRANT BE ISSUED BASED UPON A FINDING OF PROBABLE CAUSE TO BRING THE DEFENDANT BEFORE THE COURT TO SHOW CAUSE WHY PRETRIAL RELEASE SHOULD NOT BE REVOKED FOR THE ALLEGED VIOLATIONS.

_______ Other ____________________

Peter C. Lewis
U.S. Magistrate Judge

5-20-08
Date